

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<p align="center"><b>UTILITY PATENT APPLICATION TRANSMITTAL</b></p> <p><i>(Only for new nonprovisional applications under 37 CFR 1.53(b))</i></p>		Attorney Docket No.		399242000401
		First Inventor		Thomas J. FOGARTY
		Title	IMPROVED DEVICE FOR ACCURATELY MARKING TISSUE	
		Express Mail Label No.		EV381798793US

<p><b>APPLICATION ELEMENTS</b>  <i>See MPEP chapter 600 concerning utility patent application contents.</i></p>	<p><b>ADDRESS TO:</b>          MS Patent Application          Commissioner for Patents          P.O. Box 1450          Alexandria, VA 22313-1450</p>
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<p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) (Submit an original, and a duplicate for fee processing)</p> <p>2. <input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p>3. <input checked="" type="checkbox"/> Specification <span style="float: right;">[Total Pages <b>122</b>]</span> (preferred arrangement set forth below)</p> <ul style="list-style-type: none"> <li>- Descriptive title of the invention</li> <li>- Cross Reference to Related Applications</li> <li>- Statement Regarding Fed sponsored R &amp; D</li> <li>- Reference to sequence listing, a table, or a computer program listing appendix</li> <li>- Background of the invention</li> <li>- Brief Summary of the invention</li> <li>- Brief Description of the Drawings (if filed)</li> <li>- Detailed Description</li> <li>- Claim(s)</li> <li>- Abstract of the Disclosure</li> </ul> <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) <span style="float: right;">[Total Sheets <b>47</b>]</span></p> <p>5. Oath or Declaration <span style="float: right;">[Total Sheets <b>6</b>]</span></p> <p>a. <input type="checkbox"/> Newly executed (original or copy)</p> <p>b. <input checked="" type="checkbox"/> Copy from a prior application (37 CFR 1.63(d)) (for continuation/divisional with Box 18 completed)</p> <p>i. <input type="checkbox"/> <b>DELETION OF INVENTOR(S)</b> Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).</p> <p>6. <input checked="" type="checkbox"/> Application Data Sheet. See 37 CFR 1.76 5 pages</p>	<p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. <input type="checkbox"/> Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)</p> <p>a. <input type="checkbox"/> Computer Readable Form (CRF)</p> <p>b. Specification Sequence Listing on:</p> <p>i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> Paper</p> <p>c. <input type="checkbox"/> Statements verifying identity of above copies</p>
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**ACCOMPANYING APPLICATION PARTS**

9. ☐ Assignment Papers (cover sheet & document(s))

10. ☐ 37 CFR 3.73(b) Statement ☐ Power of Attorney  
(when there is an assignee)

11. ☐ English Translation Document (if applicable)

12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations

13. ☒ Preliminary Amendment - 5 pages

14. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)

15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)

16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i).  
Applicant must attach form PTO/SB/35 or its equivalent.

17. ☒ Other: 1. Fee Determination Record - 1 page


18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76:

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/935,477

Prior application information: Examiner J. Lacyk Art Unit: 3736

**For CONTINUATION OR DIVISIONAL APPS only:** The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS					
<input checked="" type="checkbox"/>	Customer Number:		20872	OR	<input type="checkbox"/> Correspondence address below
Name					
Address					
City		State		Zip Code	
Country		Telephone		Fax	

Name (Print/Type)	Cameron A. King	Registration No. (Attorney/Agent)	41,897
Signature		Date	March 10, 2004

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as Express Mail, Airbill No. EV381798793US, in an envelope addressed to: MS Patent Application, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: March 10, 2004      Signature: Victoria A. Wilson (Victoria A. Wilson)

22856 U.S. PTO  
10/798776

10/798776



031004

EV381798793US

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FEE TRANSMITTAL for FY 2004		Complete if Known	
Effective 10/01/2003, Patent fees are subject to annual revision.		Application Number	Not Yet Assigned
		Filing Date	Concurrently Herewith
		First Named Inventor	Thomas J. FOGARTY
		Examiner Name	Not Yet Assigned
		Art Unit	Not Yet Assigned
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27		Attorney Docket No.	399242000401
TOTAL AMOUNT OF PAYMENT (\$)		385.00	

METHOD OF PAYMENT (check all that apply)	FEE CALCULATION (continued)																																																																																																																																																																																		
<input type="checkbox"/> Check <input type="checkbox"/> Credit Card <input type="checkbox"/> Money Order <input type="checkbox"/> Other <input type="checkbox"/> None <input checked="" type="checkbox"/> Deposit Account: Deposit Account Number: <span style="border: 1px solid black; padding: 2px;">03-1952</span> Deposit Account Name: <span style="border: 1px solid black; padding: 2px;">Morrison &amp; Foerster LLP</span> The Director is authorized to: (check all that apply) <input checked="" type="checkbox"/> Charge fee(s) indicated below <input checked="" type="checkbox"/> Credit any overpayments <input checked="" type="checkbox"/> Charge any additional fee(s) or any underpayment of fee(s) <input type="checkbox"/> Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.	<h3 style="margin: 0;">3. ADDITIONAL FEES</h3> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1051</td><td>130</td><td>2051</td><td>65</td><td>Surcharge - late filing fee or oath</td><td></td></tr> <tr><td>1052</td><td>50</td><td>2052</td><td>25</td><td>Surcharge - late provisional filing fee or cover sheet</td><td></td></tr> <tr><td>1053</td><td>130</td><td>1053</td><td>130</td><td>Non-English specification</td><td></td></tr> <tr><td>1812</td><td>2,520</td><td>1812</td><td>2,520</td><td>For filing a request for <i>ex parte</i> reexamination</td><td></td></tr> <tr><td>1804</td><td>920*</td><td>1804</td><td>920*</td><td>Requesting publication of SIR prior to Examiner action</td><td></td></tr> <tr><td>1805</td><td>1,840*</td><td>1805</td><td>1,840*</td><td>Requesting publication of SIR after Examiner action</td><td></td></tr> <tr><td>1251</td><td>110</td><td>2251</td><td>55</td><td>Extension for reply within first month</td><td></td></tr> <tr><td>1252</td><td>420</td><td>2252</td><td>210</td><td>Extension for reply within second month</td><td></td></tr> <tr><td>1253</td><td>950</td><td>2253</td><td>475</td><td>Extension for reply within third month</td><td></td></tr> <tr><td>1254</td><td>1,480</td><td>2254</td><td>740</td><td>Extension for reply within fourth month</td><td></td></tr> <tr><td>1255</td><td>2,010</td><td>2255</td><td>1,005</td><td>Extension for reply within fifth month</td><td></td></tr> <tr><td>1401</td><td>330</td><td>2401</td><td>165</td><td>Notice of Appeal</td><td></td></tr> <tr><td>1402</td><td>330</td><td>2402</td><td>165</td><td>Filing a brief in support of an appeal</td><td></td></tr> <tr><td>1403</td><td>290</td><td>2403</td><td>145</td><td>Request for oral hearing</td><td></td></tr> <tr><td>1451</td><td>1,510</td><td>1451</td><td>1,510</td><td>Petition to institute a public use proceeding</td><td></td></tr> <tr><td>1452</td><td>110</td><td>2452</td><td>55</td><td>Petition to revive - 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late filing fee or oath		1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination		1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action		1251	110	2251	55	Extension for reply within first month		1252	420	2252	210	Extension for reply within second month		1253	950	2253	475	Extension for reply within third month		1254	1,480	2254	740	Extension for reply within fourth month		1255	2,010	2255	1,005	Extension for reply within fifth month		1401	330	2401	165	Notice of Appeal		1402	330	2402	165	Filing a brief in support of an appeal		1403	290	2403	145	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	110	2452	55	Petition to revive - unavoidable		1453	1,330	2453	665	Petition to revive - unintentional		1501	1,330	2501	665	Utility issue fee (or reissue)		1502	480	2502	240	Design issue fee		1503	640	2503	320	Plant issue fee		1460	130	1460	130	Petitions to the Commissioner		1807	50	1807	50	Processing fee under 37 CFR 1.17(q)		1806	180	1806	180	Submission of Information Disclosure Stmt		8021	40	8021	40	Recording each patent assignment per property (times number of properties)		1809	770	2809	385	Filing a submission after final rejection (37 CFR 1.129(a))		1810	770	2810	385	For each additional invention to be examined (37CFR 1.129(b))		1801	770	2801	385	Request for Continued Examination (RCE)		1802	900	1802	900	Request for expedited examination of a design application	
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<h3 style="margin: 0;">2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE</h3> <table border="1" style="width: 100%; border-collapse: collapse; font-size: 0.8em;"> <thead> <tr> <th colspan="2">Large Entity</th> <th colspan="2">Small Entity</th> <th rowspan="2">Fee Description</th> <th rowspan="2">Fee Paid</th> </tr> <tr> <th>Fee Code</th> <th>Fee (\$)</th> <th>Fee Code</th> <th>Fee (\$)</th> </tr> </thead> <tbody> <tr><td>1202</td><td>18</td><td>2202</td><td>9</td><td>Claims in excess of 20</td><td></td></tr> <tr><td>1201</td><td>86</td><td>2201</td><td>43</td><td>Independent claims in excess of 3</td><td></td></tr> <tr><td>1203</td><td>290</td><td>2203</td><td>145</td><td>Multiple dependent claim, if not paid</td><td></td></tr> <tr><td>1204</td><td>86</td><td>2204</td><td>43</td><td>** Reissue independent claims over original patent</td><td></td></tr> <tr><td>1205</td><td>18</td><td>2205</td><td>9</td><td>** Reissue claims in excess of 20 and over original patent</td><td></td></tr> </tbody> </table> <p style="text-align: right; font-weight: bold;">SUBTOTAL (2) (\$)</p>	Large Entity		Small Entity		Fee Description	Fee Paid	Fee Code	Fee (\$)	Fee Code	Fee (\$)	1202	18	2202	9	Claims in excess of 20		1201	86	2201	43	Independent claims in excess of 3		1203	290	2203	145	Multiple dependent claim, if not paid		1204	86	2204	43	** Reissue independent claims over original patent		1205	18	2205	9	** Reissue claims in excess of 20 and over original patent		<p style="text-align: right; font-weight: bold;">0.00</p>																																																																																																																																										
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SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Cameron A. King	Registration No. (Attorney/Agent)	41,897
Signature		Telephone	(415) 268-6524
		Date	March 10, 2004

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

## PATENT APPLICATION FEE DETERMINATION RECORD

Application or Docket Number

399242000401

## CLAIMS AS FILED - PART I

(Column 1)

(Column 2)

SMALL ENTITY

OR

OTHER THAN  
SMALL ENTITY

FOR	NUMBER FILED	NUMBER EXTRA	RATE	FEE		RATE	FEE
BASIC FEE (37 CFR 1.16(a))				\$385.00	OR		\$
TOTAL CLAIMS (37 CFR 1.16(c))	15 minus 20 =	0	x\$9	\$0.00	OR	\$	\$*
INDEPENDENT CLAIMS (37 CFR 1.16(b))	1 minus 3 =	0	x\$43	\$0.00	OR	\$	\$*
MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(d))			+\$145	\$0.00	OR	\$	\$*
			TOTAL	\$385.00	OR	TOTAL	\$*

\*If the different in column 1 is less than zero, enter "0" in column 2

## CLAIMS AS AMENDED - PART II

(Column 1)

(Column 2)

(Column 3)

SMALL ENTITY

OR

OTHER THAN  
SMALL ENTITY

AMENDMENT A		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI- TIONAL FEE		RATE	ADDI- TIONAL FEE
	Total (37 CFR 1.16(c))		Minus		=*	x\$	\$*	OR	\$	\$*
	Independent (37 CFR 1.16(b))		Minus		=*	x\$	\$*	OR	\$	\$*
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+\$	\$*	OR	\$	\$*
					TOTAL ADDIT. FEE	\$*	OR	TOTAL ADDIT. FEE	\$*	

(Column 1)

(Column 2)

(Column 3)

AMENDMENT B		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI- TIONAL FEE		RATE	ADDI- TIONAL FEE
	Total (37 CFR 1.16(c))		Minus		=*	x\$	\$*	OR	\$	\$*
	Independent (37 CFR 1.16(b))		Minus		=*	x\$	\$*	OR	\$	\$*
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+\$	\$*	OR	\$	\$*
					TOTAL ADDIT. FEE	\$*	OR	TOTAL ADDIT. FEE	\$*	

(Column 1)

(Column 2)

(Column 3)

AMENDMENT C		CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDI- TIONAL FEE		RATE	ADDI- TIONAL FEE
	Total (37 CFR 1.16(c))		Minus		=*	x\$	\$*	OR	\$	\$*
	Independent (37 CFR 1.16(b))		Minus		=*	x\$	\$*	OR	\$	\$*
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(d))					+\$	\$*	OR	\$	\$*
					TOTAL ADDIT. FEE	\$*	OR	TOTAL ADDIT. FEE	\$*	

\* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20"

\*\*\* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3"

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Burden Hours Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450